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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA, : CRIMINAL CASE

Plaintiff(s) **FILED** Case No. 2:18-cr-00352-HB-3

v.

JUL 12 2019

Philadelphia, Pennsylvania

May 2, 2019

SHARIF EL-BATTOUTY, KATE BARKMAN, Clerk  
By EM Dep. Clerk Time 9:37 a.m. to 2:23 p.m.

Defendant(s), :  
.....

TRANSCRIPT OF JURY TRIAL - DAY 5  
BEFORE THE HONORABLE HARVEY BARTLE, III  
UNITED STATES DISTRICT COURT JUDGE

APPEARANCES:

For the Plaintiff:

Seth Schlessinger  
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For the Plaintiff:

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For the Plaintiff:

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For Defendant Name:

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Court Recorder/ESR:

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D11

Transcription Service: Precise Transcript  
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1 (Proceedings started at 9:37 a.m.)

2 DEPUTY CLERK KRISTIN MAKELY: All rise. Oyez! Oyez!  
3 Oyez! All men or persons having anything to say before the  
4 Honorable Harvey Bartle, III, Judge for the United States  
5 District Court in and for the Eastern District of  
6 Pennsylvania may at present appear and they shall be heard.  
7 God save the United States and this Honorable Court.

8 THE COURT: Good morning members of the jury, you  
9 may be seated. May I see counsel briefly.

10 THE COURT: First let me state for the record that  
11 Juror No. 2 called in this morning and said that her car had  
12 broken down yesterday, and that she has no way of getting  
13 from her home in Northampton County to the Lansdale Station,  
14 which is about an hour from her home. I've excused her, and  
15 I replaced Alternate No. 1 in her place. Secondly, I, I told  
16 Counsel earlier this morning I've decided to allow the  
17 exhibits which have been admitted to go out with the jury,  
18 and they would be on a laptop. Am I correct?

19 MALE SPEAKER: Yes, sir.

20 THE COURT: And thirdly, I wanted to mention that I  
21 do allow the superseding indictment to go out with the jury.  
22 Anything further at this time?

23 MALE SPEAKER: No, Your Honor.

24 THE COURT: Ms. Britch, you're going to make the  
25 closing -- yes (indiscernible).

Government - Closing Argument

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1 MS. BRITSCH: Yes.

2 MR. LEE: May I just -- may I note my objection --

3 THE COURT: Absolutely.

4 MR. LEE: -- to the Government providing the laptop  
5 computers to the Jurors?

6 THE COURT: You may. Objection overruled.

7 MS. BRITSCH: Thank you, Judge.

8 THE COURT: Ms. Britsch, you make closing argument  
9 on behalf of the Government.

10 MS. BRITSCH: Thank you, Your Honor.

11 THE COURT: You may turn the podium around, if you  
12 wish.

13 MS. BRITSCH: Alright. Thank you, Your Honor. I'll  
14 leave it here, if that's okay with the Court.

15 THE COURT: Alright, that's fine.

16 MS. BRITSCH: Thank you. How would Mr. Sharif El-  
17 Battouty describe himself? I'm basically awesome. I can get  
18 any girl naked. L-O-L. I had them use any objects. L-O-L.  
19 Got tits, bloody pussy, pissing, first day talking to her.  
20 His words, not mine. And, these are just three of the  
21 thousands of chats the Defendant posted on the Cam Girls and  
22 Thot Counselors servers. Chats about minor girls, children  
23 who are nothing more than playing pieces. Pawns in the  
24 Defendant's little game. To the Defendant and his buddies on  
25 Discord, these girls were like baseball cards, to be



## Government - Closing Argument

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1 collected and traded for their own twisted sexual pleasure.  
2 But ladies and gentlemen, this is not a game because these  
3 are real children, real girls targeted by the Defendant.  
4 Girls, some who hadn't even reached puberty, manipulated,  
5 coerced, and directed to engage in sex acts on camera. The  
6 Defendant and his Discord buddies exploited their youth,  
7 their, their vulnerability, and they stole their innocence.  
8 And, unfortunately the Defendant and his co-conspirators were  
9 remarkably successful. They created thousands of videos  
10 depicting child after child after child in their community,  
11 achieving wins. Nearly 150 of these children identified so  
12 far. Think about that number, 150 girls, children, and many  
13 more not yet identified by the FBI. And, the Defendant and  
14 his Discord buddies, they shared videos of these real  
15 children on the internet, where they will preserved for all  
16 time. The sexual exploitation of these children will never,  
17 ever go away.

18 The Defendant is charged with two counts, that both  
19 involve joint criminal activity and, as you now know, that  
20 joint criminal activity occurred on Discord. Now, Discord is  
21 a regular chatting application that can be used by you or me  
22 for a regular, legal purpose. However, the Defendant and his  
23 buddies developed their own little corner of Discord  
24 dedicated to their illegal purpose, trading child  
25 pornography. And, that little corner started on Cam Girls,

## Government - Closing Argument

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1 and developed and ended on Thot Counselors. There, they  
2 surrounded themselves with like-minded people who shared  
3 their sexual interest in children. And, they thought they  
4 could be safe there. They thought they could keep out the  
5 "normies," normal people. They caught -- thought that they  
6 could elude the FBI and law enforcement. And, they created  
7 and organized and developed a community specifically  
8 dedicated to advertising child pornography, and a very  
9 particular type of child pornography at that. Child  
10 pornography showing little girls on web camera taking off  
11 their clothes, exposing their genitals, masturbating.  
12 Children directed to insert objects, plungers, markers,  
13 brushes, nail clippers, into their vaginas, all so the  
14 Defendant and his buddies could fap, masturbate. Masturbate  
15 to middle-schoolers, some still in elementary school, girls  
16 as young as eight years old. And, this occurred every single  
17 day for two years.

18 Now, even by the standards of the group, this group  
19 dedicated to child pornography, the Defendant, Fritos, was  
20 especially prolific. He constantly talked about his  
21 successes, and sometimes his failures in getting girls to do  
22 what he wanted on web camera. His specialty was getting  
23 girls to stick whatever they could find into their vaginas.  
24 His strategy was to manipulate the girls by catfishing,  
25 pretending to be someone else, to deceive them and coerce

## Government - Closing Argument

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1     them. And, you saw the Defendant also used a game, a game to  
2     manipulate the girls, entice the girls, to engage in  
3     progressively more intense, lewd, disgusting sex acts. And,  
4     you saw that the Defendant was proud of his accomplishments.  
5     He bragged on Discord about being elite. Is this really  
6     something to be proud of? Is it a skill for a grown man to  
7     dupe a child to insert a plunger into her vagina? Now, you  
8     not only saw the Defendant's words on Discord, but you heard  
9     the Defendant's words in a recorded statement to FBI Special  
10    Agent Matthew Deragon and, in that statement, he admits to  
11    being Fritos. He admits that Cam Girls and Thot Counselors  
12    were dedicated to child pornography, according to him child  
13    pornography involving girls as young as 13. And, he admits  
14    that he was active on these servers for about two years.  
15    And, you also see this in the Discord IP address records that  
16    Verizon connected to the house that the Defendant lived in in  
17    New York, Fritos' activity spanning back to 2016 and up until  
18    July 2018, when he was arrested. For two years, the  
19    Defendant sat here, in a bedroom, in his parents' house, at  
20    this computer, all day targeting children -- two years of  
21    producing child pornography, advertising child pornography,  
22    trading child pornography.

23           Now, for these crimes, the Defendant is charged with  
24    two counts. Count one is engaging in a child exploitation  
25    enterprise, and count two is conspiracy to advertise child



1 pornography. I'm going to spend a few minutes talking about  
2 how the evidence the Government has presented to you fits  
3 into the elements of each of these crimes. Later, the Judge  
4 is going to instruct you on the law and what the Government  
5 is required to prove for each of these crimes. Now, if I say  
6 anything different than what the Judge instructs you on the  
7 law, you should ignore me and follow the Judge's  
8 instructions. And, the same goes for Defense Counsel. If he  
9 tells you anything different on the law than what the Court  
10 instructs you, you should ignore him and follow the Court's  
11 instructions.

12 The first charge is engaging in a child exploitation  
13 enterprise, and it has three essential elements. First, that  
14 the Defendant distributed, transported, advertised, or  
15 received child pornography three separate times, that this  
16 involved more than one victim, and that he did it in concert  
17 with three or more people.

18 Let's first talk about what it means to distribute,  
19 transport, or receive child pornography. These crimes have  
20 similar elements, so I'll talk about them together. The  
21 first element is that the Defendant knowingly transported,  
22 distributed, or received an image or video. The second is  
23 that that image or video involved a minor engaging in  
24 sexually explicit conduct, and the image or video shows that  
25 sexually explicit conduct. The fourth is -- the third

## Government - Closing Argument

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1 element is that the Defendant knew it was minor in that image  
2 or, or video. And finally, that the Defendant used a means  
3 or facility of interstate commerce to distribute, transport,  
4 or receive that video.

5 I'm going to take that last element first, because  
6 there's no dispute on the issue of interstate commerce in  
7 this case. First, there's a stipulation, which simply means  
8 that the Government and the Defense agree that Discord  
9 operated on the internet, and the internet is a means or  
10 facility of interstate commerce. And, you heard testimony  
11 from different witnesses, Special Agent Johns, Timothy Friel,  
12 that Discord operated on the internet, and that it had users  
13 across the country, and also in foreign countries, and it had  
14 users, Mr. Timothy Friel, right here in the Eastern District  
15 of Pennsylvania.

16 There are also a couple of definitions that apply to  
17 these crimes. First, the law defines a minor as anyone under  
18 the age of 18. Second, the law defines sexually explicit  
19 conduct, and that includes actual or simulated masturbation,  
20 and you've seen many videos of children masturbating with  
21 their hands or inserting objects, plungers, markers, brushes,  
22 into their vaginas, masturbation. And, it also includes  
23 lascivious exhibition of the genitals. Is there really any  
24 question that the images and videos traded on Discord were  
25 lascivious, that they were lewd, that they were designed to



1 elicit a sexual response in the viewer, the Defendant and his  
2 co-conspirators who fapped and masturbated to these videos.  
3 Videos of 8, 10, 11, 12-year-old children? The videos that  
4 have come into evidence are lascivious.

5 Now, as part of the Discord enterprise, the  
6 Defendant himself transported, distributed, and received  
7 child pornography many, many times, and we've highlighted  
8 some examples of those in this case. Let's start with  
9 Fritos' trademark, gif files. You've heard a lot about these  
10 gif files in this case, those short movies, about three  
11 seconds, that the Defendant created. And, the evidence in  
12 this case includes 11 different child pornography gifs that  
13 the Defendant created and he distributed and transported by  
14 uploading them to the Discord servers, uploading them for his  
15 fellow users to view and download. And, he bragged about his  
16 gifs. Here, I think my gif obsession is better than your  
17 meme one, with a smiley crying emoji. And again, Fritos, L-  
18 O-L, I had them use any objects. And, you saw many of those  
19 objects in the gifs. Again, on Thot Counselors, in the  
20 Behind The Curtain, that locked channel that Fritos had  
21 access to, six more gifs depicting children inserting objects  
22 or their hands into their vaginas, masturbating.

23 The Defendant also advertised child pornography on  
24 Discord. As the Judge will instruct you later, both offering  
25 child pornography, as well as soliciting or seeking child

1 pornography, counts as advertising child pornography under  
2 this law. And, you saw the Defendant commit this offense by  
3 making posts on Discord, posts that request particular videos  
4 of particular victims in the undercover screenshots. Here,  
5 in the back, back end Discord records, a request for Alyssa  
6 Kentt or Madie, win. And, the evidence shows what win means  
7 in this community. Win, successfully getting a minor to  
8 engage in sexually explicit conduct, masturbation on web  
9 camera. And, this is the Defendant requesting that video.  
10 Another time he asks for a person with Alyssa Kentt, win, to  
11 PM, private message, him. And, he also advertises his unseen  
12 Acacia. Again, anyone have Skypes though? I'll drop -- oh,  
13 Ava Skripes, Skypes, a particular victim, and I'll drop Grace  
14 and Amaya, offering a trade. And, you saw on his external  
15 hard drive that he had folders dedicated to Alyssa Kentt and  
16 Acacia in the subfolder girls I know. And you saw Acacia, a  
17 real minor, exploited by this man.

18           The Defendant also advertised child pornography by  
19 offering to make gifs and asking what types of gifs he should  
20 make. And, this is another example of a way he advertised  
21 child pornography. Here, Fritos, who should I make gifs of?  
22 And, a fellow user responds, Omegal wins. And, what does  
23 Fritos do in response to that request? He uploads gifs of  
24 his Omegal wins.

25           Lastly, the Defendant also received child

1 pornography. You heard the Defendant in his recorded  
2 interview explain to the on-scene forensic examiner, who is  
3 walking through his external hard drive, that the drive  
4 included a bunch of downloaded stuff. And, one of those  
5 videos is a video of Lilly and Rayann. You saw Discord user  
6 Choad, post on one of the Discord Cam Girls/Thot Counselors  
7 rooms, a LiveMe M3U8 link to that file. And, this M3U8 link  
8 is one of the primary ways that the users of Discord  
9 advertise and share child pornography with each other. And,  
10 you heard that this video of Lilly and Rayann was found on  
11 the Defendant's external hard drive inside the LiveMe folder.  
12 And, you heard Agent Randal from Tex -- Texas tell you that  
13 these are real girls. Rayann, who was only 11 years old, and  
14 Lilly, who is only 10.

15 The next element of the first charge, engaging in a  
16 child exploitation enterprise, is that the incidents involved  
17 more than one victim. The gifs that you've seen depict at  
18 least 11 different minors. There's also the video of Lilly  
19 and Rayann, two more minors. There are the offers and  
20 requests for Amaya, Alyssa Kentt, Acacia, Ava, Madie, Grace,  
21 and so many others. Several more than one minor involved in  
22 these crimes.

23 The last element of a child exploitation enterprise  
24 is that the Defendant committed these offenses in concert  
25 with three or more persons. Similarly, the first element of



1 conspiracy to advertise child pornography is that two or more  
2 persons agreed to advertise child pornography. These  
3 elements, working in concert with each other, and entering  
4 into an agreement, are similar, and so I'm going to talk  
5 about some of the evidence that supports both of those  
6 elements together.

7 And, as Judge Bartle is going to instruct you, the  
8 agreement that is required for a criminal conspiracy doesn't  
9 have to be a formal agreement. It doesn't have to be in  
10 writing. There doesn't even have to be a formal oral  
11 agreement. The members don't have to agree to all the  
12 details of how the conspiracy will work or all of the means  
13 by which they will accomplish their illegal objective. It  
14 simply has to be a mutual understanding between one or more  
15 person, persons, to engage in advertising child pornography.  
16 Now, just thinking from a common sense perspective, what was  
17 the point of Thot Counselors and Cam Girls if not to work  
18 together to advertise and trade child pornography? That's  
19 why these servers existed. These people could've, and  
20 sometimes did, exclusively work on their own, engaging one-  
21 on-one with children. But they went beyond that, they came  
22 together. They joined their efforts on Cam Girls and Thot  
23 Counselors so that they could target more children, they  
24 could trade material, offer one victim for another, and  
25 expand their collective child pornography stashes.

1 And, they were highly organized to achieve that goal. You  
2 saw that they had a hierarchy of membership arranged for  
3 certain members to have access to certain channels, and  
4 others kept out. Here you see it on Thot Counselors, Senior  
5 Counsel, Junior Counsel, Sophomore Counsel. You've heard  
6 testimony about the different channels that they set up so  
7 that they could organize the content based on where it came  
8 from, the source, LiveMe channel, Snapchat channel, Periscope  
9 channel. And, this setup of hierarchy of members and  
10 channels was designed to discourage lurkers, as you heard  
11 them called, and encourage active members who would  
12 contribute to the community, add more child pornography,  
13 provide more victims. They had rules and guidelines that  
14 they posted about. They shared tips and tricks. They had  
15 conventions about how to post links so that they could avoid  
16 detection by Discord and by law enforcement. They talked  
17 about how you should label your videos as NN, non-nude, so  
18 that people would know if it's non-nude, something they might  
19 not be interested in. And here, offering help, tutorials,  
20 technical support, so that they can cap and record these  
21 girls more efficiently and more effectively.

22 And, you heard evidence that Cam Girls shut down at  
23 some point. Now, when Cam Girls shut down, did this group  
24 just disband, scatter off on their own? No. You heard  
25 evidence that this group, this mutual understanding, this



1 working together, continued server after server, until they  
2 ended up on Thot Counselors. You heard both Special Agent  
3 Johns and Timothy Friel testify about this migration from Cam  
4 Girls, after it shut down, 'til they ultimately ended up on  
5 Thot Counselors. Thot Counselors was still operating at the  
6 time of the Defendant's arrest.

7           Their mutual understanding that these servers were  
8 about advertising child pornography was apparent in their  
9 actions as well. You saw multiple examples of members  
10 requesting certain videos, certain victims, posting links  
11 asking if anyone had more of this girl. You heard Mr.  
12 Timothy Friel explain how he kept that 90-page Word document  
13 full of M3U8 links so he could more efficiently and  
14 effectively respond to requests from other members and  
15 maintain his status in the group. You've seen them  
16 strategizing about techniques to get girls on web camera.  
17 This one girl responds better to my girl catfish than my boy,  
18 for example. They discussed ways for recording and capping  
19 the live web camera sessions, and complicated methods for  
20 posting these M3U8 links so they could avoid detection and  
21 not get shut down. And, they advised each other on how to  
22 use JDownloader so they could download many, many child  
23 pornography links at one time.

24           Is there really any question that this mutual  
25 understanding was about sharing child pornography of underage

1 girls? The user Dankster summed it up nicely here.  
2 Successful 25 plus dudes lusting after 13-year-old girls.  
3 This could have been their tag line, pedobear, their mascot.  
4 References to panty-less schoolgirls, tweens, 14-year-old,  
5 15-year-old. And, less there be any doubt about their  
6 objective to share underage child pornography, just look at  
7 the videos shared on Discord. Girls, some of whom haven't  
8 even reached puberty, directed to insert plungers, nail  
9 clippers, into their bodies.

10 Now, when the Judge instructs you on the elements of  
11 conspiracy, you know what he's not going to tell you? He's  
12 not going to tell you that the Government has to prove that  
13 these co-conspirators met in person. The Judge is not going  
14 to tell you that these co-conspirators had to know their real  
15 identities. And, it shouldn't surprise any of us that the  
16 Defendant never met his co-conspirators in real life, that  
17 they never shared personal information like true names,  
18 addresses, and phone numbers. First of all, they didn't have  
19 to. Cam Girls and Thot Counselors gave them everything they  
20 needed to achieve their objection -- objective. They could  
21 communicate with each other in texts about the girls they  
22 wanted, they could share links to the child pornography files  
23 and links to the live broadcasts where the girls were  
24 performing, and they could upload files, gifs, so they could  
25 share, transport, and distribute child pornography. What

## Government - Closing Argument

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1 would meeting in person have accomplished for them? Nothing,  
2 except to risk exposing their real identities and getting  
3 caught by law enforcement. And, that's what Mr. Timothy  
4 Friel explained to you. Meeting in person would have made no  
5 sense in this conspiracy. It would have undermined this  
6 conspiracy rather than furthered it. They were trading  
7 highly illegal content, and they knew it. It would be simply  
8 ridiculous to expect these co-conspirators, whose interest  
9 was in trading child pornography on the internet, to meet in  
10 person and expose their identities.

11 Now let's talk a little bit about the Defendant's  
12 participation in this conspiracy.

13 THE COURT: Five more minutes, Ms. Britsch.

14 MS. BRITSCH: Thank you, Your Honor. There's no  
15 question that the Defendant is Fritos, and you saw plenty of  
16 activity by Fritos. And, now Mr. Lee spent some time  
17 emphasizing that maybe Fritos wasn't the top dog in this  
18 conspiracy, but there's no doubt that he was one of the top  
19 dogs. He was part of the Senior Counsel. And, one thing  
20 you're not going to hear the Judge instruct you is that there  
21 is any requirement that the Defendant be a high level member  
22 in the conspiracy. In fact, the Defendant -- the Judge is  
23 going to instruct you on quite the opposite. The Government  
24 does not have to prove that about the Defendant. So, don't  
25 let the fact that a user like Orlok may have created the



1 server distract you from the fact that Fritos was an active  
2 and elite member of this server, posting about gifs,  
3 uploading those gifs, making requests for re-uploads, asking  
4 for win, offering to drop the megaton bomb in response,  
5 asking for win in private messages.

6 And, then there's all the evidence on the  
7 Defendant's external hard drive, mounds of child pornography  
8 of the exact type sought and shared on Cam Girls and Thot  
9 Counselors. Let's also not forget the Defendant talked about  
10 catfishing, one of his strategies for getting content from  
11 these girls. CF, catfish. He also bragged about his sources  
12 on Cam Girls. The sources that he talked about in his  
13 interview were those folders on his external hard drive,  
14 meufs, my Omegles. He admitted those are the girls he  
15 chatted with one-on-one. And, you saw exhibit after exhibit  
16 of the hundreds of folders and videos the Defendant had.  
17 Sources of these particular gifs that he uploaded were  
18 located on his hard drive, video of these two girls from  
19 which he made a gif. This gif, as well, the video on his  
20 computer. And, Fritos bragged about his sources on Discord.  
21 He hoarded all of his "good shit." And, you saw that on his  
22 external hard drive.

23 He also saved these chat conversations with minors.  
24 14 years old -- girl, I was 10, nasty, go to hell. His  
25 response, I thought you were 13. 14 -- 12-year-old, and then

1 finally please stop, I'm only 9. He told Special Agent  
2 Deragon that he saved these chats 'cause he thought they were  
3 funny. Funny? Really? Even a 12-year-old knew this was  
4 gross. A 9-year-old knew it was wrong. And finally, there's  
5 the Defendant's game. Elaborate, detailed slide shows  
6 dedicated to getting minors to engage in progressively more  
7 and more lewd sex acts. You saw evidence of how this  
8 particular line from a game he talked about on Discord, from  
9 the other game, encouraging the children to hump a plush toy.  
10 And, you saw a video of this child on his computer directed  
11 to hump a teddy bear. Is it a coincidence that he's talking  
12 about children's toys, stuffed animals? The Defendant had  
13 multiple videos that were titled to correspond to these  
14 games. Name and age, and the word game.

15 Fritos worked in concert with his Discord buddies  
16 day in and day out for nearly two years. As Agent Johns  
17 testified, their joint criminal activity resulted in the  
18 victimization of at least 150 identified minors. Real  
19 children, not virtual pawns. Victims from across the country  
20 who you heard about in this trial. Aubrey, whose mother told  
21 you that she was only 12 years old the time her video was  
22 shared on the internet. Rayann from Texas, Payton from  
23 California, both only 11. And Lilly, who was only 10.  
24 To the Defendant, these girls, these real, live children,  
25 were playing pieces in his little game. But, this is not a



Government - Closing Argument/Defendant - Closing Argument  
20.

1 game. It is a crime, a horrible, horrible crime, that  
2 targeted real children. The evidence shows that the  
3 Defendant, Fritos, is guilty beyond a reasonable doubt. Find  
4 him guilty.

5 THE COURT: Thank you. Mr. Lee, you may make a  
6 closing on behalf of the Defendant.

7 MR. LEE: Good morning, ladies and gentlemen of the  
8 jury. I'd like to start by repeating something that I said  
9 to you in my opening statement earlier this week, and I want  
10 to thank you for serving as Jurors in this case. I said in  
11 my opening that serving as a Juror is one of the most  
12 important things that we do as citizens and as members of  
13 society, and I am grateful for your service, and so is Mr.  
14 El-Battouty. And I know that serving on a jury can be  
15 difficult. It's a time commitment away from your employer or  
16 your family, and it's not an easy thing to do, but I thank  
17 you all for your commitment to listening to all of the  
18 evidence that was presented in this case. And in particular,  
19 I know that the evidence that you've seen in this case is  
20 often -- it was oftentimes disturbing and offensive, and I  
21 understand and I recognize that that fact made it especially  
22 difficult to serve on this jury, but I thank you for doing  
23 so.

24 In my opening statement, I also told you that this  
25 was a case about someone who sat in front of a computer day

1 after day, night after night and in doing so that person  
2 engaged in one-on-one interactions with others, and he read  
3 and he posted messages on various Discord server message  
4 boards. But in doing these things, he did so alone. He  
5 acted for and on behalf of himself, and not for others, and  
6 not with others. And, that is fundamentally what this case  
7 is about.

8 The Government, for its part, contends that this  
9 case is about a global enterprise, a grand conspiracy of  
10 like-minded individuals who were engaged in all manner of  
11 illegal activity. But I submit to you that the evidence  
12 shows that the Government is incorrect in that regard, and  
13 this is a case about a single individual who acted alone.  
14 I'd like to start by talking about some of the witnesses who  
15 testified in the trial and whose testimony you heard, and I'm  
16 going to start with Mr. Timothy Friel. You will recall that  
17 Mr. Friel took the witness stand earlier this week,  
18 testified, acknowledged that he is a cooperating witness for  
19 the Government, he had pleaded guilty already. He is  
20 awaiting sentencing by this Court, by Judge Bartle, in two  
21 weeks, in this very court room. He will be back in this  
22 courtroom in two weeks, standing before Judge Bartle to  
23 receive his sentence for the crimes that he has acknowledged  
24 he committed.

25 During Mr. Friel's testimony, you heard that he was

1 interviewed earlier -- in February of 2018, by Special Agent  
2 Daniel Johns, who's here in the courtroom and who testified  
3 not once, but twice in this case. Mr. Friel was interviewed  
4 by Agent Johns and another FBI agent at his home in Bucks  
5 County, and I want to talk about first how that interview of  
6 Mr. Friel was conducted by those two FBI agents. You will  
7 recall that during my cross-examination, I questioned Mr.  
8 Friel. He acknowledged that when these two FBI agents came  
9 to his house and interviewed him as part of the execution of  
10 a search warrant, they told him that it was FBI policy to  
11 advise him of his rights, and they did, in fact, advise him  
12 of his rights. And, you will recall that they gave him a  
13 whole series of -- they read him his rights. They read him a  
14 litany of his rights. He had the right to remain silent, he  
15 was told that anything he could say -- that he did say could  
16 be used against him in Court, he had the right to talk to a  
17 lawyer before the questioning began, he had the right to have  
18 a lawyer present while he was questioned by Agent Johns. If  
19 he couldn't afford a lawyer, the Court would appoint him a  
20 lawyer. And lastly, he was told that if he started answering  
21 the Agents' questions but decided to stop, he could do so at  
22 any time. Mr. Friel acknowledged those rights, but yet  
23 continued -- agreed to start answering questions that were  
24 posed to him by those Agents. And, you will recall that he  
25 lied in response to a direct question by Agent Johns. He was



1 asked whether he had ever accessed child pornography over the  
2 internet, and he said no. He flat out lied. He got on the  
3 witness stand and acknowledged that. There is no dispute  
4 that he lied. He, he, he, he, he said so himself. But was  
5 he charged in his case with lying to the FBI, which is a  
6 felony? No, he was not. Instead, Mr. Friel became a  
7 cooperating witness for the FBI, and he agreed to plead  
8 guilty, albeit to a much more serious crime.

9           You heard Mr. Friel testify that he's facing an  
10 exceedingly long jail sentence for the crimes to which he has  
11 committed. By his own words, he expects to receive a  
12 sentence somewhere around 22 years in prison. I pointed out  
13 to him that given a dispute that may -- a dispute on how the  
14 sentencing guidelines calculation will work in his case, he  
15 could, in fact, be facing a life sentence. He agreed that  
16 that was absolutely correct, and that was absolutely a  
17 possibility.

18           So, I ask that you consider very carefully Mr.  
19 Friel's motives in testifying in this case. Remember, the  
20 jail sentence that he is facing for the crimes to which he  
21 has committed, remember that he is an admitted liar, and  
22 remember that in less than two weeks, he will be in this  
23 court room standing before Judge Bartle for sentencing. He  
24 is a highly motivated individual. He is highly motivated to  
25 cooperate. He acknowledged he's highly motivated so that the

1 Government, he's hoping, will file what is known as a 5K  
2 motion at his sentencing, and he will receive a lesser  
3 sentence. That is what motivates him. So, I ask you to keep  
4 all of that in mind when considering his testimony in this  
5 case.

6 And, it will be up to you, members of the jury, to  
7 decide whether you determine that Mr. Friel was, in fact, a  
8 credible witness, considering everything that you've heard  
9 about him. I submit to you that he is a liar and that he's  
10 not a credible witness. But, ultimately that is your  
11 decision, and I ask that you keep in mind all of the facts  
12 and circumstances surrounding Mr. Friel's testimony when you  
13 consider his testimony during your deliberations.

14 Next, I'd like to talk about the testimony that you  
15 heard from FBI Special Agent Matthew Deragon. Agent Deragon  
16 is from New York. He testified earlier this week in this  
17 court room about what he did on the day of July 18, 2018.  
18 You will recall that that was the day that a team of eight  
19 armed FBI agents and one New York City police detective went  
20 to the El-Battouty residence in Queens, New York, executed a  
21 search warrant, they interviewed Mr. El-Battouty. You heard  
22 a lot about that, and I'll get to that in a moment. Remember  
23 also, though, that we talked -- I talked about with Agent  
24 Deragon during his testimony the status of the FBI's  
25 investigation in this case before he and his team of agents



1 even knocked on the front door of the El-Battouty residence.  
2 You will recall that this investigation started way back in  
3 May of 2017, when an FBI undercover agent clicked on a link  
4 that he found while browsing the internet, and that took him  
5 into the Cam Girls server on Discord. That same FBI  
6 undercover agent engaged in monitoring of activity going on  
7 at Discord for several months that followed, and he recorded  
8 some of that activity. He specifically recorded activity  
9 that was taking place on Discord during that period of time  
10 that he was monitoring activity, activity that was being  
11 undertaken by the user who is known as Fritos. The FBI  
12 issued a search warrant for user information to Discord in  
13 July of 2017, and eventually there were a total of three  
14 search warrants that were issued to Discord for user  
15 information.

16 You will recall testimony that Discord provided user  
17 information in response to the search warrants, which  
18 included IP addresses. The FBI sent subpoenas to various  
19 internet service providers to find out the subscriber  
20 information that corresponded to those IP addresses,  
21 including an IP address that Verizon provided information to  
22 indicate that that IP address was associated with a residence  
23 in Woodside, New York, which was, in fact, the El-Battouty  
24 residence.

25 The FBI also did what was called open source

1 database research. You'll recall that I questioned Agent  
2 Deragon about that. And the FBI learned that there were  
3 three individuals who lived at the El-Battouty residence in  
4 Woodside, New York -- the Defendant and his two parents. His  
5 79-year-old father, and his mother, whose name is Anne.  
6 And lastly, you will recall that Agent Deragon testified  
7 about, about a lead that he received from the FBI in  
8 Philadelphia, that it asked the New York Division of the FBI  
9 to carry out this investigation search warrant, and Agent  
10 Deragon testified that he understood that it was the  
11 intention of the FBI to arrest individuals on July 18, 2018,  
12 the day that that search warrant was executed at the El-  
13 Battouty residence.

14 This is all the information that Agent Deragon and  
15 his team of agents had in their heads before they even  
16 knocked on the door of the El-Battouty residence. This  
17 investigation had proceeded very far. Significant amounts of  
18 information had been gathered, collected by the FBI, and  
19 Agent Deragon knew all that information before he even  
20 stepped up the stairs and knocked on the door of the El-  
21 Battouty residence.

22 The FBI arrived at the El-Battouty residence on July  
23 18th at 6:01 in the morning. Within six minutes of their  
24 arrival at the residence, Agent Deragon and his partner  
25 proceeded in the parents' bedroom, across from Mr. El-

## Defendant - Closing Argument

27

1 Battouty, the Defendant, in this case, interrogating him. It  
2 took them six minutes to start interrogating Mr. El-Battouty.  
3 They knew exactly who they were going to talk to when they  
4 got to that residence. They knew that it wasn't the 79-year-  
5 old father. They knew that it wasn't the Defendant's mother.  
6 They were targeting Mr. El-Battouty, the Defendant in this  
7 case, and it's clear from the timeline that they went right  
8 to him. It took them six minutes to focus their attention on  
9 Mr. El-Battouty.

10 Now, in the course of interrogating him, it's clear  
11 -- I believe it's clear. I submit to you that the agents  
12 misled Mr. El-Battouty about the investigation. You will  
13 recall from the audio recording of the interview that was  
14 played in Court that Mr. El-Battouty asked the agents a  
15 number of questions about the investigation and about his  
16 status. One minute into the interview, Agent Deragon says to  
17 Mr. El-Battouty, "I just want you to know right now that  
18 you're not under arrest, okay? Right now you're not in any  
19 trouble." It's clear, however, from the evidence, that that  
20 was not a true statement. Mr. El-Battouty was in serious  
21 trouble, and he was misled by Agent Deragon, who said to him  
22 you're not in any trouble. Twelve minutes into the  
23 interview, Mr. El-Battouty says "am I gonna go to jail or  
24 something?" Response from Agent Deragon, "well, I don't know  
25 that yet, man." Twenty-five minutes into the interview, Mr.



1 El-Battouty says am I in trouble? Just tell me like what's  
2 going on. Answer from Agent Deragon, I don't know. These  
3 agents were clearly encouraging Mr. El-Battouty to talk, to  
4 answer their questions, and they were misleading him about  
5 how serious -- about, about how much trouble he really was  
6 in.

7 The other thing that's abundantly clear from the  
8 FBI's interrogation of Mr. El-Battouty is that the agents  
9 failed to adequately advise him of his rights. Recall what I  
10 just said a moment ago about Mr. Friel, and recall his  
11 testimony. The FBI agents who went to visit Mr. Friel,  
12 including Agent Johns, said it was FBI policy to advise  
13 someone in Mr. Friel's position of their rights before the  
14 interview started, and he was, in fact, advised of all of his  
15 rights. That did not happen when Agent Deragon and his team  
16 of agents went to the El-Battouty residence and started their  
17 interrogations of Mr. El-Battouty. He was told some of his  
18 rights, but he certainly wasn't advised that he had the right  
19 to consult with a lawyer or he had the right to have a lawyer  
20 present while he was answering questions, or that he could  
21 stop the questions at any time, if he so chose, chose to do  
22 so. So, it's clear that the FBI policy that Mr. Friel spoke  
23 about that was applied to him in his case by Agent Johns  
24 evidently didn't apply to Mr. El-Battouty was he was  
25 interrogated by agents at his home.



1           Now, you heard evidence that Agent Deragon completed  
2 his interview of Mr. El-Battouty at 7:25 a.m., less than 90  
3 minutes after the agents came into that house, and less than  
4 90 minutes after Agent Deragon had told Mr. El-Battouty that  
5 he wasn't in trouble. He was in trouble. He was in serious  
6 trouble and, at the conclusion of that interview, at 7:25  
7 a.m., Agent Deragon advised Mr. El-Battouty that he was going  
8 to be placed under arrest.

9           Now, Judge Bartle, in a few moments, will give you  
10 specific instructions on the law and its -- and specifically  
11 how much weight you may choose to give to Mr. El-Battouty's  
12 statement to the FBI. One factor that Judge Bartle will  
13 instruct you on and one factor that the Court will instruct  
14 you to consider, is whether you think that Mr. El-Battouty's  
15 statement to the FBI agents that day was voluntary. The  
16 Court will instruct you that if you determine that Mr. El-  
17 Battouty's statement to the FBI was not voluntary, you may --  
18 you may, and indeed must, disregard it. Based upon the  
19 evidence that was presented at trial, I submit to you that  
20 you should conclude that Mr. El-Battouty's statement to the  
21 FBI that day was not voluntary, because Special Agent Deragon  
22 gave false assurances not once, not twice, but multiple times  
23 to Mr. El-Battouty about how much trouble he really was in.  
24 It's clear that Mr. El-Battouty, as I said, was in a great  
25 deal of trouble that day, even before that team of eight FBI

1 agents and one New York City police detective descended upon  
2 his family home in Queens, New York. Mr. El-Battouty's  
3 statement, under these circumstances, I submit to you, was  
4 not voluntary, and you should disregard it.

5 Now I'd like to turn to you -- talk to you about the  
6 specific charges in the case. You heard from the Government  
7 during their closing that count one, in this case, charges  
8 Mr. El-Baddouty -- El-Battouty with engaging in what the law  
9 calls a child exploitation enterprise, and Judge Bartle will  
10 give you specific instructions on what the law requires in  
11 that regard. And the Government attorney, during her closing  
12 argument, went through the elements. And I won't repeat  
13 those elements, other than to say I want to focus on the  
14 third element, which I believe is the most important element  
15 for the purposes of this case.

16 The third element is that -- requires the Government  
17 to prove beyond a reasonable doubt that the Defendant  
18 committed the offenses, the multiple offenses, in concert  
19 with three or more other persons. While we believe -- excuse  
20 me, while I submit to you that the Government has failed to  
21 meet its burden of proof on the first two elements, I really  
22 want to focus on the third. Now, you heard during the  
23 Government's closing that it's the Government's position that  
24 Mr. El-Battouty was part of an enterprise that consisted of  
25 numerous individuals located throughout the United States,

1 and perhaps even in the world, all acting together, acting in  
2 concert, which is the legal term, by using the various  
3 Discord servers and text channels.

4       Once you receive instructions from the Court, in a  
5 few minutes, it will be your job to determine whether the  
6 Government has, in fact, proven beyond a reasonable doubt  
7 that Mr. El-Battouty committed these offenses in concert with  
8 three or more other persons. You will have to decide whether  
9 Mr. El-Battouty and the other alleged members of what the  
10 Government refers to as this enterprise, were essentially in  
11 business or partnership together in order to do these illegal  
12 things. And I submit to you, ladies and gentlemen of the  
13 jury, that the evidence in this case falls far short of  
14 establishing that Mr. El-Battouty act, acted in concert with  
15 anyone, let alone three or more other persons.

16       I ask that you consider the following evidence that  
17 was presented at the trial in this case. The evidence is  
18 clear that Mr. El-Battouty never met with any of the other  
19 individuals who were alleged to have been users on these  
20 various Discord servers. It's undisputed that the Discord  
21 users that -- who, who have been referred to during this  
22 trial, didn't know each other's real names. They only know -  
23 - knew each other by their online user names.  
24 Mr. El-Battouty never knew where any of these individuals  
25 lived, or even what they looked like. They may have lived



1 down the street from him, they may have lived across the  
2 country, they may have lived in another part of the world.  
3 He did not know. There's no evidence that's been presented  
4 that Mr. El-Battouty spoke to any of them on the phone, and  
5 certainly never met any of them face-to-face. Everything  
6 that Mr. El-Battouty has alleged to have done in this case  
7 occurred while he was sitting behind the computer screen in  
8 his parents' home in Queens, New York.

9 Now, during the course of the trial, you heard  
10 testimony about how the Discord servers and the various sub-  
11 rooms in each of those servers operate, and you heard  
12 evidence about how users can post messages on those servers  
13 and can communicate with one another. But the Government  
14 failed to introduce any evidence demonstrating that Discord  
15 users on these particular services -- servers, excuse me,  
16 coordinated their online activities or their messages.  
17 Instead, users could log in at any time, and they could read  
18 messages at any time, and they could post messages at any  
19 time. Users could choose not to log on to Discord. It was  
20 entirely up to them. Users could participate in any number  
21 of servers or channels at any one time, or not.

22 The Government did not present any credible evidence  
23 suggesting that the Discord -- that Discord users had a  
24 common purpose or a common goal, nor did the text channel  
25 messages that were introduced into evidence by the Government



1 contain any such discussion over a common purpose or a common  
2 goal nor, I submit to you, can any common purpose be  
3 reasonably inferred from the activities of Discord users on  
4 these various servers.

5 Now you heard throughout the course of the trial  
6 and, and, again, this morning in the Government's closing,  
7 that the user known as Fritos had some sort of a leadership  
8 rule, leadership role, with the Discord servers that are at  
9 issue in this case. It is undisputed, however, in this case,  
10 that Fritos did not create the Cam Girl server. He did not  
11 create the Thot Counselors server. He did not create any of  
12 the sub-channels or sub-rooms contained with any -- within  
13 either one of those servers.

14 And while the Government argues to you that Fritos  
15 was apparently designated this Senior Counsel role on Thot  
16 Counselors, I submit to you that there was no credible  
17 evidence presented that Fritos exercised any actual  
18 leadership or administrative role with in the Discord  
19 servers. There was no evidence that Fritos wrote the rules  
20 or the guidelines that governed how these servers were to  
21 operate. There's no evidence that Fritos established the  
22 naming conventions that the Government spoke about in, in  
23 their, in their closing argument a few moments ago, the  
24 naming convention for certain files.

25 I ask that you remember that the Government has to

1 prove beyond a reasonable doubt that Mr. El-Battouty  
2 committed the offenses in question in concert with three or  
3 more other persons, and this is critically important. The  
4 only live witness who testified at trial who could possibly  
5 considered one of these three or more other persons was Mr.  
6 Friel. I've already addressed the serious credibility  
7 problems that it -- that, that Mr. Friel has, and I'm not  
8 going to repeat that again. You've already heard that. I've  
9 already talked about Mr. Friel's deep-seated motivation in  
10 this case to cooperate with the Government against Mr. El-  
11 Battouty in order to curry favor with the prosecution and to  
12 earn what he is hoping to be -- what he is hoping will be a  
13 lesser sentence when he is sentenced in two weeks. So, I  
14 respectfully suggest that you disregard Mr. Friel's  
15 testimony, and he cannot be considered one of the three or  
16 more other individuals for purposes of the in concert  
17 requirement for this element of count one.

18           So, if we take Mr. Friel out of the equation, the  
19 Government cannot establish the existence of three or more  
20 other persons without utilizing the messages that were posted  
21 on the various message boards on the Discord servers, which  
22 we saw at trial. But it's equally clear that each individual  
23 on -- each individual user on Discord posted messages  
24 whenever that user saw fit to do so at a time and in a manner  
25 of his own choosing.

1           The Government pointed out that Discord's users  
2 would sometimes ask questions of other users or would respond  
3 with gratitude to a previous post. But I submit to you that  
4 answering a question post -- posted on a message board or  
5 saying thank you in response to a posting on a message board,  
6 is not the same as acting in concert.

7           Agent Johns testified twice in this case, you will  
8 recall. During his second testimony, he testified  
9 extensively about forensic analysis that was performed by the  
10 FBI on the various computer devices that were seized from the  
11 El-Battouty residence -- the desktop computer, the external  
12 hard drive. Agent Johns testified that many of the items  
13 that were found on the external hard drive represented what  
14 he agreed with me could be characterized fairly as one-on-one  
15 interactions. In other words, he discovered numerous  
16 screenshots of Snapchat and other types of text message  
17 exchanges, and Agent Johns acknowledged that these  
18 interactions took place outside of Discord, entirely separate  
19 from the Discord activity that we've been talking about so  
20 much in this case.

21           So, I submit to you that you should not consider any  
22 of these one-on-one interactions, the evidence of which Agent  
23 Johns testified was found on the external hard drive, for  
24 purposes of determining whether Mr. El-Battouty is guilty on  
25 count one, because by their very nature, these one-on-one



1 interactions could not possibly be considered to be offenses  
2 committed in concert with three or more other persons for  
3 purposes of count one.

4         The second crime that Mr. El-Battouty is charge with  
5 in this case, as you know, is conspiracy to advertise child  
6 pornography. And again, you will hear from Judge Bartle in a  
7 few moments about the law as it applies to that particular  
8 crime. You will learn that a conspiracy is when two or more  
9 individuals get together and agree to work together to carry  
10 out the object of the conspiracy. So, to have a conspiracy  
11 you have to have two or more individuals, and you need, most  
12 importantly, an agreement to carry out the object of the  
13 conspiracy, to work together toward a common purpose. And  
14 it's equally clear, as you will hear from the Court, that the  
15 Government has to prove beyond a reasonable doubt that the  
16 participants in the conspiracy knowingly and intentionally  
17 agreed to work together toward that common purpose.  
18 So, to prove a conspiracy in this case against Mr. El-  
19 Battouty, the Government will have to show beyond a  
20 reasonable doubt that he knowingly and intentionally agreed  
21 to work together with all of these other individuals to  
22 achieve a common goal, and that is to advertise child  
23 pornography.

24         So, let's start with the requirement that the  
25 Government prove the existence of an agreement among co-



1 conspirators. So, what is the evidence of an agreement in  
2 this case? I submit to you that there is no evidence of an  
3 agreement in this case. Again, the only potential co-  
4 conspirator that you heard from, who testified live in this  
5 court room, was Mr. Friel. No other potential co-  
6 conspirators testified live, so Mr. Friel is the only one who  
7 came into this court room and testified. I will not repeat  
8 what I've already said about Mr. Friel, other than to say his  
9 testimony, I submit, should not be considered for purposes of  
10 your deliberations into whether there was an agreement.  
11 So, setting aside Mr. Friel's testimony, the only other way  
12 that the Government can prove an agreement in this case is by  
13 relying upon the Discord messages. But again, I submit to  
14 you that those messages contain no evidence of an agreement  
15 whatsoever, and certainly not proof of an agreement beyond a  
16 reasonable doubt.

17 Ladies and gentlemen of the jury, at the end of the  
18 trial, you heard testimony regarding four young women whose  
19 videos were posted to one of the Discord servers. In  
20 considering the evidence and the testimony regarding those  
21 four individuals, I'd just ask that you keep in mind a few  
22 points. The user who went by the name Fritos did not post  
23 the links to those videos that were uploaded to Discord.  
24 Agent Johns agreed with me in his testimony that Fritos was  
25 not the user that uploaded those links to Discord. This was

1 done by other users on the Discord servers. The Government  
2 didn't present any, any evidence that the user Fritos was  
3 responsible for recording the videos of those four young  
4 women. And lastly, the Government presented no evidence that  
5 the user Fritos had any type of one-on-one interaction with  
6 any of those four young women.

7 Ladies and gentlemen of the jury, in conclusion,  
8 this case is ultimately about a single person who was glued  
9 to his computer day and night, engaging in one-on-one action  
10 -- interactions using applications such as Snapchat and other  
11 types of text messaging, and who read and posted messages on  
12 a Discord server or servers. You may ultimately decide that  
13 this individual engaged in disgusting and abhorrent behavior.  
14 But he did so alone, and he did so for his own purposes and  
15 not in concert with, or in any type of a conspiratorial  
16 agreement with others.

17 So, inclusion -- in conclusion, I once again I thank  
18 you for your service, and I ask that you return a verdict of  
19 not guilty on both counts. Thank you.

20 THE COURT: Members of the jury, as I told you  
21 yesterday, the Government under our rules, is entitled to a  
22 short rebuttal. Ms. Shoop?

23 MS. SHOOP: Thank you, Your Honor.

24 MS. SHOOP: Pedos and pervs. Pedophiles and  
25 perverts. That's what the Defendant and his buddies on

## Government - Rebuttal Argument

39

1 Discord call themselves. You saw that in the messages. The  
2 user DarkU, he was right when he said youngees (ph) are so  
3 easy. Children are easy targets, they're very easy targets.  
4 All day, all night, for approximately two years, the  
5 Defendant and the other users on Discord, they worked  
6 together and they targeted thousands of children. Think  
7 about that number. Let there be no mistake, ladies and  
8 gentlemen, the Defendant sitting in front of you is  
9 absolutely guilty of engaging in a child exploitation  
10 enterprise. He's absolutely guilty of engaging in a  
11 conspiracy to advertise child pornography. It doesn't matter  
12 that none of these people met in person. The Judge will tell  
13 you actually, the law specifically states that the Government  
14 does not have to prove that the members of the conspiracy  
15 directly met, that they even know each other in real life, or  
16 that all the members of the conspiracy are even known.

17 Let's talk about the agreement that the Defense  
18 Counsel talked about. It doesn't matter that there's not a  
19 formal written agreement between the members on Discord.  
20 That's what the law says. It specifically states that the  
21 Government does not have to prove the existence of a formal  
22 or written agreement, or even an oral one. And think about  
23 that for a moment. That makes sense, right? We don't have  
24 criminals coming together at a table, sitting down, signing a  
25 contract like they're buying a car. That's not how these



1 operations work. That's not how this group of people worked.  
2 The law also does not require that the Defendant played a  
3 substantial role in the conspiracy. That's what it says.  
4 That's what the Judge will instruct you. But in this case,  
5 he did. He was Senior Counsel. He was the Epics. He  
6 himself did, in fact, have the power to kick people out, and  
7 he admits that in his interview.

8 The law states that you may find the existence of a  
9 conspiracy based on the circumstances surrounding the scheme.  
10 That word scheme, that's literally in the law. The Judge  
11 will instruct you about that. That's what a conspiracy is,  
12 it's a scheme, a scheme where people participate together.  
13 And the circumstances surrounding the scheme in this case are  
14 very clear. The Defendant and the other members on Cam Girls  
15 and Thot Counselors, they were a team. Think about the way  
16 they operated. They moved from server to server together.  
17 They did congratulate one another. They encouraged each  
18 other. They shared different techniques and methods about  
19 obtaining the required content. They created rules, they had  
20 a hierarchy. Only certain members had access to certain  
21 stuff. They shared the file with the child pornography, they  
22 shared the links to child pornography. They were organized.

23 I want to talk to you about this one-on-one that the  
24 Defense Counsel mentioned. Did Mr. El-Battouty really work  
25 alone? Come on, really? You've watched the undercover



## Government - Rebuttal Argument

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1 recordings. You've read the chats. You've heard his own  
2 statement. He didn't work alone, he worked with all of these  
3 other users. In fact, he literally gives a list in his  
4 interview. Oh, I know fap89, I know Harmon, I know DarkU, I  
5 know Toot, I know Jizzbomb, I know Orlok, I know Davis (ph),  
6 I know Lightsmare (ph), I know Opensbobsburger (ph), I know  
7 The Goat. He literally highlighted all of those users in his  
8 interview, that he knew, that he worked with. There was  
9 nothing about this that was one-on-one on Discord. They all  
10 worked together.

11 Now, what I will say is yeah, you know what the one-  
12 on-one was, is when he went out and he talked to these kids  
13 on his own to produce the child pornography, to do what with  
14 it? Bring it back to the group. That's how they operated.  
15 You can literally see that from the gifs that the Government  
16 has presented to you. The full files of those videos that he  
17 produced one-on-one, those are on his computer. They're on  
18 that hard drive. He did use specialized software to cut a  
19 three-second clip, and then upload it to the group. So, you  
20 know what? The Government will agree, he did engage in one-  
21 on-one communications with a minor, but for the benefit and  
22 the common goal of the group.

23 Let's talk about Timothy Friel for a second. The  
24 Defense is right. He sat up there and he told you he has  
25 pled guilty. He's pled guilty to engaging in a child

1 exploitation enterprise on Discord. Everything that he  
2 testified up there about was corroborated by the evidence --  
3 how they operated, how they worked, the purpose. That's the  
4 same thing that Agent Johns saw when he was a member of it.  
5 Was he lying about being JJchuck, the user? Well no, because  
6 we saw the undercover recordings. He's like yeah, that's me.  
7 Was he lying about the way they operated? You saw that. You  
8 saw it in the chats. You saw it in the undercover  
9 recordings. You heard it from Agent Johns. Is it surprising  
10 that when the FBI showed up to his house, that he lied and  
11 said I haven't seen child pornography? Is it surprising that  
12 he didn't want to admit to being in this organized scheme,  
13 this child exploitation enterprise? That's not surprising.  
14 Everything that he testified to on that stand has been  
15 corroborated by other evidence, and you get to consider that  
16 when considering his credibility.

17 I'm going to also comment about Agent Deragon.  
18 You've heard the interview yourself. The Defense used this  
19 word, interrogation. Did that sound like an interrogation?  
20 Was Agent Deragon yelling at the Defendant? Did that sound  
21 forceful? Did he seem coercive? His tone was completely  
22 conversational. They had the chat in his parents' bedroom,  
23 where they had the door open just so that he would feel more  
24 comfortable. And, in fact, if you go back and listen to that  
25 interview, the Defendant says, when they talk about the

1 digital devices, I can show you. He volunteers to walk over  
2 with the FBI agent to the digital devices to show him all the  
3 child pornography. There was nothing coercive about that.  
4 Now, ladies and gentlemen, I want to leave you with this.  
5 Government Exhibit 19A, that's this right here, this little  
6 tiny hard drive. This tiny little device contains thousands  
7 of children that were manipulated by the Defendant to get  
8 naked on a web camera, to stick foreign objects in their  
9 bodies, for what? For his sexual gratification. There are  
10 so many files, which you saw when Agent Johns was testifying,  
11 on that hard drive, it's almost hard to actually comprehend  
12 how this man and his co-conspirators even engaged with that  
13 many real children over two years. But he did. But they  
14 did.

15 THE COURT: Two more minutes, Ms. Shoop.

16 MS. SHOOP: Thank you, Your Honor. As Ms. Britsch  
17 told you, the children in this case are real. You saw a mom  
18 testify on the stand yesterday. She has a real daughter.  
19 They have homes. They go to school. They have moms and  
20 dads. They're real. As you deliberate in this case, as you  
21 go back and you talk about the evidence and you review the  
22 evidence, think about the victims. The Defendant in this  
23 case, he's guilty. He was a member of the group, he was an  
24 active participant, and we ask that you find him guilty of a  
25 child exploitation enterprise and for being part of these



1 groups that advertise child pornography.

2 THE COURT: Members of the jury, we will now take  
3 our morning recess of 15 minutes. The case has not yet been  
4 submitted for deliberation. Please do not discuss it at the  
5 recess. When we return, I will give you your instructions.

6 COURT REPORTER/ESP JIMMY CRUZ: All rise.

7 (Recess 10:53 a.m., until 11:42 a.m.)

8 MS. MAKELY: All rise. Court is now in session.

9 THE COURT: You may be seated. I want to apologize  
10 to you, members of the jury. I had an emergency matter that  
11 I had to deal with, so that's why there was a delay. Thank  
12 you for your patience. Members of the jury, we have now  
13 arrived at the point in the case where I charge you before  
14 you go out to deliberate. That is to say, this is the point  
15 when I tell you what the law is. You must apply that law to  
16 the facts that you find from the evidence before you. You  
17 are not single out any one instruction of mine as stating the  
18 law. Rather, you should consider as a whole all the  
19 instructions that I give you. On the other hand, as I have  
20 told you, the determination of the facts, the determination  
21 of questions of fact, and the rendering of a verdict, are all  
22 matters solely within your province. Therefore, I want to  
23 emphasize what I said at the outset. Nothing I have said or  
24 done during the course of this trial or will say during the  
25 course of this charge was meant by me or should be taken by

1 you as some sort of a hint from me as to what your verdict  
2 should be. The verdict is your function alone, and not mine.  
3 It is your duty to base your verdict solely upon the evidence  
4 in the case without prejudice again or sympathy for either  
5 the Government or the Defendant. Both parties accept --  
6 expect that you will carefully and impartially consider all  
7 the evidence in the case, follow the law as stated by The  
8 Court, and reach a just verdict, regardless of the  
9 consequences. That was the promise you made and the oath you  
10 took before being accepted by the parties as jurors in this  
11 case. They have the right, as do I, to expect nothing less  
12 from you.

13           You will recall that I earlier told you that what a  
14 lawyer says to you is not evidence. The only exception to  
15 this rule are stipulations or agreements of the parties. The  
16 parties may agree to stipulate to one or more facts, in which  
17 case you may accept the fact or facts as evidence. You are  
18 not required to do so, however, since you are the sole judges  
19 of the facts. The lawyers' opening speeches to you, the  
20 questions that they asked during the trial, their objections,  
21 their arguments and comments to me, and last of all, what  
22 they have just said to you in their closing summations, none  
23 of that is evidence. The function of the lawyers is to point  
24 out those things that are most significant and most helpful  
25 to the lawyers' client and, in so doing, to call your

1 attention to certain facts or inferences that might otherwise  
2 escape your notice. However, it is your recollection and  
3 interpretation of the evidence that controls in the case.  
4 What the lawyers say is not binding upon you. Further, any  
5 questions that I may have asked are not evidence which you  
6 may consider. Anything you may have seen or heard outside  
7 the courtroom is not evidence, neither is the superseding  
8 indictment evidence. It is merely an accusation or charge,  
9 and it is not proof of anything or evidence of any kind  
10 against the Defendant.

11           The evidence you are to consider in rendering the  
12 verdict in this case is the testimony of witnesses regardless  
13 of who may have called them, and the documents or other  
14 exhibits that have been admitted into evidence, regardless of  
15 who may have produced them. The Government and the Defendant  
16 have agreed to certain stipulated facts. You may therefore  
17 treat these facts as having been proven. You are not  
18 required to do so, however, since you are the sole judges of  
19 the facts.

20           I have taken what is called judicial notice of the  
21 fact that Bucks County is in this judicial district -- that  
22 is, in the Eastern District of Pennsylvania. You may accept  
23 this fact as proven, but you are not required to do so. As  
24 with any fact, the final decision of whether to accept it is  
25 for you to make, and you are not required to agree with me.



1 In reviewing the evidence, it should not be considered by you  
2 in fragmentary parts as though each fact or circumstance  
3 stood apart from the others. You should consider the entire  
4 evidence and determine its weight from the whole body of that  
5 evidence. If evidence came in and objection was sustained,  
6 or if I instructed you to disregard it, you must put it out  
7 of your mind as if you had never heard it. You are  
8 absolutely bound to do that.

9 The Defendant, Sharif El-Battouty, pleaded not  
10 guilty to the offenses charged. He is presumed to be  
11 innocent. The Defendant starts the trial with a clean slate,  
12 with no evidence against him. The presumption of innocence  
13 stays with the Defendant unless and until the Government has  
14 presented evidence that overcomes that presumption by  
15 convincing you that the Defendant is guilty of the offenses  
16 charged beyond a reasonable doubt. The presumption of  
17 innocence requires that you find the Defendant Not Guilty on  
18 a charge unless you are satisfied that the Government has  
19 proven guilt beyond a reasonable doubt on that charge. The  
20 presumption of innocence means that the Defendant has no  
21 burden or obligation to present any evidence at all or to  
22 prove that he is not guilty. The burden or obligation of  
23 proof is on the Government to prove that the Defendant is  
24 guilty, and this burden stays with the Government throughout  
25 the trial. The burden is always upon the Government to prove

1     guilt beyond a reasonable doubt. The law does not impose any  
2     burden on a Defendant and does not require a Defendant to  
3     prove his or her innocence or to produce any evidence at all.  
4     The Government has the heavy burden of proving a Defendant  
5     guilty beyond a reasonable doubt and, if it fails to do so,  
6     you must acquit the Defendant. The Government must establish  
7     each of the elements of the offense with which a Defendant is  
8     charged by proof beyond a reasonable doubt. Thus, for  
9     example, if a crime has three elements and the Government  
10    proves only two of them beyond a reasonable doubt, you must  
11    acquit on that charge. Similarly, some elements of the  
12    charged offenses may be proved in one or more different ways.  
13    Under that circumstance, you may not convict the Defendant  
14    unless you unanimously agree that the Government has met its  
15    burden of proof on at least one of the alternatives or  
16    options.

17           The requirement that the Government prove its case  
18    beyond a reasonable doubt, however, does not mean that it  
19    must prove guilt beyond all possible doubt. The test is one  
20    of reasonable doubt. Reasonable doubt is a doubt based upon  
21    reason and common sense. After careful and impartial  
22    consideration of all the evidence in the case, the kind of  
23    doubt that would make a reasonable person hesitate to act.  
24    Proof beyond a reasonable doubt, therefore, is proof of such  
25    a convincing character that you would be willing to rely and

1 upon it without hesitation in the most important of your own  
2 affairs. Reasonable doubt is doubt which appeals to your  
3 reason, to your judgment, to your common sense, and to your  
4 experience. It is not caprice or whim or speculation. It is  
5 not an excuse to avoid the performance of an unpleasant duty.  
6 A Defendant may not be convinced (sic) based on suspicion or  
7 conjecture, but only on evidence proving guilt beyond a  
8 reasonable doubt.

9           As I discussed with you earlier, there are two types  
10 of evidence which you may properly consider. One is what we  
11 call direct evidence. This is testimony by an eyewitness,  
12 someone who saw or heard something. Thus, as I explained  
13 earlier, if someone looked outside and saw that it was  
14 snowing, that person could testify that she saw it snowing at  
15 a particular time and place, and her testimony would be  
16 direct evidence of the fact that it had snowed. The other  
17 type of evidence is called circumstantial evidence. That is,  
18 proof of a chain of circumstances pointing to a conclusion  
19 about another fact. Thus, if the same person went to sleep  
20 at night and there was no snow on the ground, but when she  
21 awoke the ground was covered with fresh snow, she could  
22 testify to those circumstances, and you could infer from this  
23 circumstantial evidence the fact that it had snowed during  
24 the night, even though she never saw a flake of snow fall.  
25 As a general rule, the law makes no distinction between



1 direct and circumstantial evidence. It simply requires that  
2 before convicting a Defendant on any count, you, the jury,  
3 must be satisfied of the Defendant's guilt on that count  
4 beyond a reasonable doubt from all the evidence, whether  
5 direct or circumstantial.

6 In reaching your verdict, you are expected to use  
7 your good sense and consider the evidence for only those  
8 purposes for which it has been admitted. Further, you are  
9 expected to give the evidence reasonable and fair  
10 construction in light of your common knowledge of the natural  
11 tendencies and inclinations of human beings. In other words,  
12 you may make deductions and reach conclusions that reason and  
13 common sense lead you to draw from the facts which you  
14 conclude have been established by the evidence.

15 In your consideration of the evidence, you are not  
16 limited to the bald statements of the witnesses. You are  
17 permitted to draw inferences, but only from facts which you  
18 have found to be proven from the evidence, and only such  
19 inferences as seem justified in light of your experience.  
20 The inferences that you can draw, however, are only  
21 inferences reasonably and fairly based upon the evidence.  
22 In rendering a verdict, you must consider the credibility of  
23 witnesses. Credibility is just another word for  
24 believability, and you, the jurors, are the sole judges of  
25 the believability of all the witnesses, as well as the sole

1 judges of the weight their testimony deserves. You should  
2 carefully scrutinize all the testimony each witness has given  
3 and every matter of evidence which tends to show whether a  
4 witness is worthy of belief. You should decide whether you  
5 believe what each witness had to say, and how important that  
6 testimony was. In making your assessment, you should  
7 carefully scrutinize all the testimony given, the  
8 circumstances under which each witness has testified, and  
9 every matter in evidence which tends to show whether a  
10 witness, in your determination, is worthy of belief.  
11 Consider each witness's intelligence, motive to falsify, and  
12 state of mind. Consider his or her demeanor while on the  
13 stand. Ask yourself a few questions. Did the person impress  
14 you as honest? Did the witness have any particular reason  
15 not to tell the truth? Did the witness have a personal  
16 interest in the outcome of the case? Did the witness have  
17 any relationship with either the Government or the Defense?  
18 Did the witness seem to have a good memory? Did the witness  
19 have the ability to observe the matters as to which he or she  
20 has testified? Did the witness have the opportunity and  
21 ability to understand the questions and clearly, clearly, and  
22 answer them directly? Did the witness's testimony differ  
23 from the testimony of other witnesses? Did the witness  
24 demonstrate any bias, prejudice, or hostility? These are a  
25 few of the considerations that will help you determine the

1 accuracy of what each witness said. After making your  
2 assessment concerning the credibility of a witness, you may  
3 decide to believe all of that witness's testimony, only a  
4 portion of it, or none of it.

5 Members of the jury, you are not required to accept  
6 testimony even though the testimony is uncontradicted and the  
7 witness is not impeached. You may decide, because of the  
8 witness's bearing and demeanor, or because of the inherent  
9 improbability of his or her testimony, or any part thereof,  
10 or for other reasons sufficient to you, that such testimony  
11 is not worthy of belief in whole or in part. And should you  
12 find that any witness has testified falsely, then you may  
13 either disregard entirely the testimony of that witness, or  
14 accept some part of it and reject the other part of it,  
15 whether or not it is contradicted.

16 In this case, you have heard as witnesses certain  
17 persons who are law enforcement officers; in this case,  
18 agents from the Federal Bureau of Investigation I instruct  
19 you that these persons are here only as witnesses. You  
20 should judge their credibility as you would any other  
21 witness. You should not give their testimony any great,  
22 greater, or lesser weight, or judge them more or less  
23 credible just because they are employees or officers of the  
24 Government. At the same time, it is quite legitimate for  
25 Defense Counsel to try to attack the believability of a law



1 enforcement officer on the ground that his or her testimony  
2 may be colored by a personal or professional interest in the  
3 outcome of the case. You must decide, after reviewing the  
4 evidence, whether you believe the testimony of the law  
5 enforcement witnesses, and how much weight, if any, it  
6 deserves.

7           You have heard evidence that Timothy Friel entered  
8 into a Plea Agreement with the Government. His testimony was  
9 received into evidence, and may be considered by you. But  
10 you should consider his testimony with great care and  
11 caution. In evaluating his testimony, you should consider  
12 this factor, along with the others I have called to your  
13 attention. Whether or not his testimony may have been  
14 influenced by the Plea Agreement is for you to determine.  
15 You may give his testimony such weight as you think it  
16 deserves. You must not consider his guilty plea as any  
17 evidence of Defendant's guilt. Mr. Friel's decision to plead  
18 guilty was a personal decision about his own guilt. Such  
19 evidence is offered only to allow you to assess the  
20 credibility of the witness, to eliminate any concern that the  
21 Defendant has been singled out for prosecution, and to  
22 explain how the witness came to possess detailed firsthand  
23 knowledge of the events about which he has testified. You  
24 may consider his guilty plea only for these purposes.  
25 You have also heard that before the trial, one witness made

1 statements that may be different from his testimony in this  
2 trial. It is for you to determine whether these statements  
3 were made, and whether they were different from the witness's  
4 testimony in this trial. These earlier statements were  
5 brought to your attention only to help you decide whether to  
6 believe the witness's testimony here at trial. You cannot  
7 use the earlier statements as proof of the truth of what the  
8 witness said in those earlier statements that was not made  
9 under oath. You can only use them as one way of evaluating  
10 the witness's testimony in this trial.

11 The Defendant did not testify in this case. A  
12 witness -- rather, a Defendant has an absolute constitutional  
13 right not to testify. The burden of proof remains with the  
14 Government throughout the entire trial, and never shifts to  
15 the Defendant. A Defendant is never required to prove that  
16 he is innocent. You must not attach any significance to the  
17 fact that the Defendant did not testify. You must not draw  
18 any adverse inference against him because he did not take the  
19 witness stand. Do not consider, for any reason at all, the  
20 fact that the Defendant did not testify. Do not discuss that  
21 fact during your deliberations or let it influence your  
22 decision in any way.

23 The Government introduced evidence that the  
24 Defendant made a statement to law enforcement. You must  
25 decide whether the Defendant did, in fact, make the

1 statement. If you find that the Defendant did make the  
2 statement, then you must decide what weight, if any, you feel  
3 the statement deserves. In making that decision, you should  
4 consider all matters into evidence having to do with the  
5 statement, including those concerning the Defendant himself  
6 and the circumstances under which the statement was made.  
7 If, after considering the evidence you determine that a  
8 statement was made voluntarily, you may give it such weight  
9 as you feel it deserves under the circumstances. On the  
10 other hand, if you determine that the statement was not made  
11 voluntarily, you must disregard it. In determining whether  
12 any alleged statement was made voluntarily, you should  
13 consider the Defendant's age, training, education,  
14 occupation, and physical and mental condition, and his  
15 treatment while in custody or under interrogation, as shown  
16 by the evidence in the case. Also consider all the other  
17 circumstances into evidence surrounding the making of the  
18 alleged statement.

19 Although the Government is required to prove that  
20 the Defendant is guilty beyond a reasonable doubt, the  
21 Government is not required to call all witnesses as witnesses  
22 all persons who may have been present at any time or place  
23 involved in the case, or who may appear to have some  
24 knowledge of the matters in issue at this trial.  
25 Furthermore, the Government is not required to present all



1 possible evidence related to the case.

2           The punishment provided by law for the offenses  
3 charged in the superseding indictment is a matter exclusively  
4 within the province of The Court should there be a verdict of  
5 guilty on any count. Punishment should never be considered  
6 by you, the jury, in any way in arriving at an impartial  
7 verdict as to the offenses charged. You will note that the  
8 superseding indictment charges that the offenses were  
9 committed on or about certain dates or in and about certain  
10 periods of time. The Government does not have to prove with  
11 certainty the exact date of the alleged offenses. It is  
12 sufficient if the Government proves beyond a reasonable doubt  
13 that the offenses were committed on a date reasonably near  
14 the dates alleged.

15           The superseding indictment alleges that some act in  
16 furtherance of the offenses charged occurred in the Eastern  
17 District of Pennsylvania. There is no requirement that all  
18 aspects of each offense charged take place here, in the  
19 Eastern District of Pennsylvania. The Government also does  
20 not need to prove that the Defendant himself personally  
21 committed any acts within the Eastern District of  
22 Pennsylvania. But for you to return a guilty verdict on a  
23 crime charged in the superseding indictment, the Government  
24 must prove that some act in furtherance of that crime  
25 committed by any participant in the offense, whether or not

1 that participant was the Defendant, took place here, in the  
2 Eastern District of Pennsylvania. The Government must prove  
3 all the elements of each of the two crimes charged beyond a  
4 reasonable doubt, but unlike all the elements of the crimes  
5 charged, the fact that some act in furtherance of a crime  
6 charged took place in this judicial district only has to be  
7 proven by a preponderance of the evidence. This means the  
8 Government only has to prove that its existence is more  
9 likely than not.

10 The Defendant is charged with two offenses. Each  
11 offense is charged in a separate count of the superseding  
12 indictment. The number of offenses charged is not evidence  
13 of guilt, and this should not influence your decision in any  
14 way. You must separately consider the evidence against the  
15 Defendant on each offense charged, and you must return a  
16 separate verdict on each offense. For each offense charged,  
17 you must decide whether the Government has proven beyond a  
18 reasonable doubt that the Defendant is guilty of that  
19 particular offense. Your decision on one offense, whether  
20 guilty or not guilty, should not influence your decision on  
21 the other offense.

22 Before the Defendant may be found guilty of either  
23 crime charged in the superseding indictment, the Government  
24 must establish beyond a reasonable doubt that he acted in a  
25 manner forbidden by the law as charged in the superseding

1 indictment, and that he acted with the requisite state of  
2 mind.

3 I will now explain to you the offenses with which  
4 the Defendant is charged and the law which you must apply in  
5 this case. You are to determine whether the Defendant is  
6 guilty or not guilty only as to the specific charges brought  
7 against him by the Government. Such charges are the only  
8 charges before you to consider. The Defendant is not on  
9 trial for any conduct which is not charged as a crime in the  
10 superseding indictment.

11 As I explained at the beginning of the trial, a  
12 superseding indictment is just a formal way of specifying the  
13 exact crime the Defendant is accused of committing. A  
14 superseding indictment is simply the description of the  
15 charges against the Defendant. It is an accusation only. It  
16 is not evidence of anything and should not be given any  
17 weight -- and you should not give any weight to the fact that  
18 the Defendant has been indicted in making your decision in  
19 this case.

20 The superseding indictment charges the Defendant  
21 with two crimes. One, engaging in a child exploitation  
22 enterprise; and two, conspiracy to advertise child  
23 pornography. The offenses charged in the superseding  
24 indictment require proof of the Defendant's state of mind at  
25 the time of the commission of the alleged offense. That is,



1 the Government must prove that the Defendant intended to  
2 commit each of the offenses in issue. Often the state of  
3 mind with which a Defendant acts at any given time cannot be  
4 proven directly because one cannot read another person's mind  
5 and tell what that person is thinking. However, the  
6 Defendant's state of mind can be proven indirectly from the  
7 surrounding circumstances. Thus, to determine the  
8 Defendant's state of mind at a particular time, you may  
9 consider evidence about what he said, what he did or failed  
10 to do, how he acted, and all the other facts and  
11 circumstances shown by the evidence that may prove what was  
12 in the Defendant's mind at that time. It is entirely up to  
13 you to decide what the evidence presented during this trial  
14 proves or fails to prove about the Defendant's state of mind.  
15 You may also consider the natural and probable results or  
16 consequences of any acts the Defendant knowingly did and  
17 whether it is reasonable to conclude that he intended those  
18 results or consequences. You may find, but you are not  
19 required to find, that the Defendant knew and intended the  
20 natural and probable consequences or results of the acts he  
21 knowingly did. This means that if you find that an ordinary  
22 person in the Defendant's situation would have naturally  
23 realized that certain consequences would result from his  
24 actions, then you may find, but you are not required to find,  
25 that the Defendant did know and did intend those consequences

1 would result from his actions. This is entirely up to you to  
2 decide as the finders of facts in this case.

3 The offenses charged in the superseding indictment require  
4 the Government to prove that the Defendant acted knowingly  
5 with respect to certain elements of the offenses. This means  
6 that the Government must prove beyond a reasonable doubt that  
7 the Defendant was conscious and aware of the nature of his  
8 actions and of the surrounding facts and circumstances as  
9 specified in the definitions of the offenses charged.

10 In deciding whether the Defendant acted knowingly, you may  
11 consider in evidence about what the Defendant said, what the  
12 Defendant did and failed to do, how the Defendant acted, and  
13 all the other facts and circumstances shown by the evidence  
14 that may prove what was in Defendant's mind at the time. The  
15 Government, however, is not required to prove that the  
16 Defendant knew his acts were against the law.

17 In contrast, motive is not an element of the offense with  
18 which the Defendant is charged. Proof of bad motive is not  
19 required to convict. Further, proof of bad motive alone does  
20 not establish that the Defendant is guilty, and proof of good  
21 motive alone does not establish that the Defendant is not  
22 guilty. Evidence of the Defendant's motive, however, may  
23 help you find the Defendant's intent. Intent and motive are  
24 different concepts. Motive is what prompts a person to act.  
25 Intent refers only to the state of mind with which the

1 particular act is done. Personal advancement and financial  
2 gain, for example, are motives for much of human conduct.  
3 However, these motives may prompt one person intentionally to  
4 do something perfectly acceptable, while prompting another  
5 person intentionally to do an act that is a crime.

6 I now instruct you on the specific elements that the  
7 Government must prove for the offense charged in count one of  
8 the superseding indictment. This count charges that from in  
9 or about July 2016 through on or before August 29, 2018, the  
10 Defendant knowingly engaged in a child exploitation  
11 enterprise. In order for you to find the Defendant guilty of  
12 engaging in a child exploitation enterprise, you must find  
13 that the Government has proven each of the following three  
14 elements. One, that the Defendant committed a series of  
15 felony violations constituting three or more separate  
16 incidents. Two, that the three or more incidents together  
17 involved more than one victim in total. And three, that the  
18 Defendant committed these offenses in concert with three or  
19 more other persons.

20 I will explain the first element in more detail. I  
21 will also further define the alleged felony violations which  
22 the Government must prove in order to establish the existence  
23 of child -- a child exploitation enterprise and the  
24 Defendant's participation in it. As I mentioned, the first  
25 element of the crime of engaging in a child exploitation



1 enterprise is the Defendant's commission of a series of  
2 felony violations constituting three or more separate  
3 incidents. I will now define for you the various types of  
4 felony violations which are required to establish a child  
5 exploitation enterprise. The felony violations must be one  
6 or more of the following. Advertising child pornography is  
7 one of the relevant types of felony violations. The elements  
8 of that offense are one, that the Defendant knowingly made,  
9 printed, or published, or caused to be made, printed, or  
10 published, a notice or advertisement. Two, that the notice  
11 or advertisement sought or offered to receive, exchange,  
12 produce, display, distribute, or reproduce a visual  
13 depiction. Three, that the visual depiction involved the use  
14 of a minor engaged in sexually explicit conduct. Four, that  
15 the visual depiction was of such conduct. And five, that the  
16 Defendant knew or had reason to know that such notice or  
17 advertisement would be transported using a means or facility  
18 of interstate commerce, or in or affecting interstate  
19 commerce by any means, including by computer, or that such  
20 notice or advertisement was transported using any means or  
21 facility of interstate commerce, or in or affecting  
22 interstate commerce by any means, including by computer.  
23 Transporting child pornography is another relevant type of  
24 felony violation. The elements of that offense are one, that  
25 the Defendant knowingly transported or shipped a visual

1 depiction using any means or facility of interstate commerce,  
2 or in or affecting interstate commerce by any means,  
3 including by computer. Two, that the production of the  
4 visual depiction involved the use of a minor engaging in  
5 sexually explicit conduct. Three, that the visual depiction  
6 was of such conduct. And four, that the Defendant knew that  
7 the production of the depiction involved the use of a minor  
8 engaged in sexually explicit conduct and that the depiction  
9 was of such conduct.

10 Distributing child pornography is the third relevant  
11 type of felony violation. The elements of that offense are  
12 one, that the Defendant knowingly distributed a visual  
13 depiction. Two, that the depiction was distributed using any  
14 means or facility of interstate commerce, or that the  
15 depiction had been shipped or transported in or affecting  
16 interstate commerce by any means, including by computer.  
17 Three, that the production of the visual depiction involved  
18 the use of a minor engaging in sexually explicit conduct.  
19 Four, that the depiction is of the minor engaging in sexually  
20 explicit conduct. And five, that the Defendant knew that the  
21 production of the depiction involved the use of a minor  
22 engaged in sexually explicit conduct and that the depiction  
23 was of such conduct.

24 Receiving child pornography is a fourth relevant  
25 type of felony violation. The elements of that offense are

1 that the Defendant knowingly received a visual depiction;  
2 that the depiction was received using any means or facility  
3 of interstate commerce, or that the depiction had been  
4 shipped or transported in or affecting interstate commerce by  
5 any means, including by computer; that the production of the  
6 visual depiction involved the use of a minor engaging in  
7 sexually explicit conduct; that the depiction is of the minor  
8 engaging in sexually explicit conduct; and that the Defendant  
9 knew that the production of the depiction involved the use of  
10 a minor engaged in sexually explicit conduct and that the  
11 depiction was of such conduct.

12 In order for you to find that the first element of  
13 count one has been satisfied, you must unanimously agree as  
14 to which felony violations, as described above, Defendant  
15 committed, and that the felony violations constituted three  
16 or more separate incidents. You must be unanimous as to the  
17 violations and the three or more incidents.

18 To find the Defendant guilty of engaging in a child  
19 exploitation enterprise, you must also find that the  
20 Defendant committed the three or more incidents of felony  
21 violations in concert with three or more other persons. It  
22 is not necessary that each individual incident was committed  
23 in concert with three or more other persons. The required  
24 total of three other persons may be tallied by considering  
25 all the incidents together.



1 I will now further define for you the terms minor,  
2 visual depiction, sexually explicit conduct, and facility of  
3 interstate commerce. As used in these instructions, minor  
4 means any person under the age of 18 years at the time of the  
5 offense. Visual depiction includes data stored on a computer  
6 disc or by electronic means which is capable of conversion  
7 into a visual image, and data which is capable of conversion  
8 into a visual image that has been transported -- transmitted  
9 by any means, whether or not stored in a permanent format.  
10 Sexually explicit conduct means actual or simulated  
11 masturbation; lascivious exhibition of the genitals or pubic  
12 area of any person; sexual intercourse, including genital,  
13 oral genital, anal genital, or oral anal; bestiality, or  
14 sadistic or masochistic abuse.

15 The word lascivious means tend to excite lust, lewd,  
16 indecent, obscene, sexually -- sexual impurity, tending to  
17 deprive the morals and respect of sexual relations,  
18 licentious. In determining whether a depiction -- visual  
19 depiction is lascivious, you may consider the following  
20 factors: Where the focal point of the picture is the child's  
21 genitals or pubic area; where the setting is sexually  
22 suggestive as, for example, in a place or pose generally  
23 associated with sexual activity; where the child is depicted  
24 in an unnatural pose considering the age of the child; where  
25 the child is partially clothed or nude; where the picture

1 suggests sexual coyness or willingness to engage in sexual  
2 activity; where the picture is intended or designed to elicit  
3 a sexual response in a viewer; where the picture portrays the  
4 child as a sexual object; and the caption, if any, on the  
5 picture. Of course, a visual depiction need not involve all  
6 of these factors to be a lascivious exhibition. The weight  
7 or lack of weight which you give to any of these factors is  
8 for you to decide.

9 A facility of interstate commerce includes any  
10 thing, tool, or device that is involved in interstate  
11 commerce. The internet is a facility of interstate commerce,  
12 and the transmission of a visual depiction by means of the  
13 internet constitutes transportation of the visual depiction  
14 in interstate commerce. That is, movement between different  
15 states in the United States.

16 The Defendant is also charged, in count two of the  
17 superseding indictment, with conspiracy to advertise child  
18 pornography. It is a federal crime for two or more persons  
19 to agree or conspire to advertise child pornography, even if  
20 they never actually chieve -- achieve their objective. A  
21 conspiracy is a kind of criminal partnership. In order for  
22 you to find the Defendant guilty of conspiracy to advertise  
23 child pornography, you must find that the Government has  
24 proven beyond a reasonable doubt that -- each of the  
25 following three elements. One, that two or more persons

1 agreed to advertise child pornography. Two, that the  
2 Defendant was a party to or member of that agreement. And  
3 three, that the Defendant joined the agreement or conspiracy  
4 knowing of its objective and intending to join with at least  
5 one other alleged conspirator to achieve that objective; that  
6 is, that the Defendant and at least one other alleged  
7 conspirator shared a unity of purpose and intent to achieve a  
8 common goal or objective to advertise child pornography.  
9 I will explain each of these elements in more detail. I've  
10 already explained to you the elements of the offense that is  
11 alleged to be the objective of the conspiracy; that is, the  
12 offense of advertisement of child pornography in paragraph --  
13 in an earlier paragraph. The first element of the crime of  
14 conspiracy is the existence of an agreement. The Government  
15 must prove beyond a reasonable doubt that two or more persons  
16 knowingly and intentionally arrived at a mutual understanding  
17 or agreement, either spoken or unspoken, to work together to  
18 achieve the overall objective of the conspiracy, to commit  
19 the offense of advertisement of child pornography.  
20 The Government does not have to prove the existence of a  
21 formal or written agreement, or an express oral agreement  
22 spelling out the details of the understanding. The  
23 Government also does not have to prove that all members of  
24 the conspiracy directly met or discussed between themselves  
25 their unlawful objective, or agreed to all the details, or



1 agreed to what the means were by which the objective would be  
2 accomplished. The Government is not even required to prove  
3 that all the people named in the superseding indictment were,  
4 in fact, parties to the agreement, or that all members of the  
5 alleged conspiracy were named, or that all members of the  
6 conspiracy are even known. What the government must prove  
7 beyond a reasonable doubt is that two or more persons, in  
8 some way or matter, arrived at some type of agreement, mutual  
9 understanding, or meeting of the minds, to try to accomplish  
10 a common and unlawful objective.

11           You may consider both direct and circumstantial  
12 evidence in deciding whether the Government has proven beyond  
13 a reasonable doubt that an agreement or mutual understanding  
14 existed. You may find the existence of a conspiracy based on  
15 reasonable inferences drawn from the actions and statements  
16 of the alleged members of the conspiracy, from the  
17 circumstances surrounding the scheme, and from evidence of  
18 related facts and circumstances which proved that the  
19 activities or the participants in a crime venture and could  
20 not have been carried out except as the result of a  
21 preconceived agreement, scheme, or understanding.

22 If you find that a criminal agreement or conspiracy existed,  
23 then in order to find the Defendant guilty of conspiracy, you  
24 must also find that the Government proved beyond a reasonable  
25 doubt that the Defendant knowingly and intentionally joined

1 that agreement or conspiracy during its existence. The  
2 Government must prove that the Defendant knew the goal or  
3 objective of the agreement or conspiracy and voluntarily  
4 joined it during its existence intending to achieve the  
5 common goal or objective, to work together with the other  
6 alleged conspirators toward that goal or objective. The  
7 Government need not prove that the Defendant knew everything  
8 about the conspiracy, or that he knew everyone involved in  
9 it, or that he was a member from the beginning. The  
10 Government also does not have to prove that the Defendant  
11 played a major or substantial role in the conspiracy.  
12 You may consider both direct and circumstantial evidence in  
13 deciding whether the Defendant joins the conspiracy, knew of  
14 its criminal objective, and intended to further the  
15 objective; evidence which shows that the Defendant only knew  
16 about the conspiracy or only kept bad company by associating  
17 with members of the conspiracy; or was only present when it  
18 was discussed or when a crime was committed. It is not  
19 sufficient to prove that the Defendant was a member of the  
20 conspiracy, even if the Defendant approved of what was  
21 happening or did not object to it. Likewise, evidence  
22 showing that the Defendant may have done something that  
23 happened to help a conspiracy does not necessarily prove that  
24 he joined the conspiracy. You may, however, consider this  
25 evidence with all the other evidence in deciding whether the

1 Government has proven beyond a reasonable doubt that the  
2 Defendant joined the conspiracy.

3 In order to find the Defendant guilty of conspiracy,  
4 you must find that the Government proved beyond a reasonable  
5 doubt that the Defendant joined the conspiracy knowing of its  
6 objective and intending to help further or achieve that  
7 objective. That is, the Government must prove one, that the  
8 Defendant knew of the objective or goal of the conspiracy.  
9 Two, that the Defendant joined the conspiracy intending to  
10 help further achieve that goal or objective. And three, that  
11 the Defendant and at least one other alleged conspirator  
12 shared a unity of purpose toward that objective or goal.  
13 You may consider both direct evidence and circumstantial  
14 evidence, including the Defendant's word or conduct, and  
15 other facts and circumstances, in deciding whether the  
16 Defendant had the required knowledge and intent. For  
17 example, evidence that the Defendant derived some benefit  
18 from the conspiracy or had some stake in the achievement of  
19 the conspiracy's objective might intend to show that the  
20 Defendant had the required intent or purpose that the  
21 conspiracy's objective be achieved.

22 Members of the jury, the Government is not required  
23 to prove that any of the members of the conspiracy were  
24 successful in achieving any or all of the objectives of the  
25 conspiracy. You may find the Defendant guilty of conspiracy



1 if you find that the Government proved beyond a reasonable  
2 doubt the elements that I have explained, even if you find  
3 the Government did not prove that any of the conspiracy --  
4 conspirators actually committed the offense of advertising of  
5 child pornography. Conspiracy is a criminal offense separate  
6 from the offense that was the object of the conspiracy.  
7 Conspiracy is complete without commission of the offense.  
8 Count two of the superseding indictment charges that the  
9 conspiracy existed from in or about July 2016 through on or  
10 about August 29, 2018. The Government need not prove that  
11 the conspiracy started or ended on or about those specific  
12 dates. It is sufficient if you find in fact that the charge  
13 conspiracy was formed and existed for some time within the  
14 period set forth in the superseding indictment. The  
15 conspiracy ends when the objectives of the conspiracy have  
16 been achieved or when all members of the conspiracy have  
17 withdrawn from it. However, a conspiracy may be a continuing  
18 conspiracy and, if it is, it lasts until there is some  
19 affirmative showing that it has ended or that all its members  
20 have withdrawn. A conspiracy may be a continuing one if the  
21 agreement includes an understanding that the conspiracy will  
22 continue over time. Also, a conspiracy may have a continuing  
23 purpose or objective, and therefore may be a continuing  
24 conspiracy.

25 Evidence has been admitted in this case that certain

1 persons who are alleged to be co-conspirators of the  
2 Defendant did or said certain things. The acts or statements  
3 of any member of a conspiracy are treated as acts or  
4 statements of all the members of the conspiracy even if these  
5 acts or statements were performed or spoken during the  
6 existence of the conspiracy and to further the objective of  
7 the conspiracy. Therefore, you may consider as evidence  
8 against the Defendant any acts done or statements made by any  
9 members of the conspiracy during the existence of and to  
10 further the objectives of the conspiracy. You may consider  
11 these facts and statements, even if they were done and made  
12 in the Defendant's absence and without his knowledge. As  
13 with all the evidence presented in this case, it is for you  
14 to decide whether you believe this evidence, and how much  
15 weight to give it. Acts done or statements made by an  
16 alleged co-conspirator before the Defendant joined the  
17 allowed -- the alleged conspiracy, may also be considered by  
18 you as evidence against the Defendant. However, acts done or  
19 statements made before the alleged conspiracy began or after  
20 it ended may only be considered by you as evidence against  
21 the person who performed that act or made that statement.  
22 Members of the jury, upon the conclusion of my instructions,  
23 you will retire to consider your verdict. Your verdict on  
24 each count must be unanimous. That is, all jurors must  
25 agree. In reaching your verdict, you must determine the

1 facts from all the testimony you have received and from all  
2 the other evidence which has been received during the trial.  
3 You are the sole and exclusive judges of the facts. Neither  
4 I nor anyone else may infringe upon your responsibility in  
5 that area. You must, however, accept the Rules of Law as I  
6 have given them to you whether you agree with them or not,  
7 and then apply the law as I have stated it to the facts that  
8 you find.

9           Your attitude and conduct at the outset of your  
10 deliberations are matters of considerable importance. When  
11 you return to the jury room, your deliberations should begin  
12 and proceed in an orderly fashion. Your first order of  
13 business is to elect a foreperson. Now, you may choose any  
14 one of your number as the foreperson, but I want to emphasize  
15 that that person's vote, views, and opinions, are entitled to  
16 no greater weight than any other juror. The same is true of  
17 notetaking. Perhaps some of you have taken notes and others  
18 have not. Merely because a juror has taken notes does not  
19 mean that those notes are accurate or that the person taking  
20 the notes has a superior recollection of the evidence. Notes  
21 are not entitled to any greater weight than an individual  
22 juror's recollection, and the recollection of the juror who  
23 was taking notes is not entitled to any greater weight simply  
24 because he or she took notes than is the recollection of a  
25 juror whose memory is not supported by notes.



1 If, in the course of your deliberations you have any further  
2 questions or should find yourself in serious doubt concerning  
3 some portions of my instructions to you about the law, I'm  
4 not suggesting that you will, but if you do, it is your  
5 privilege to return to the courtroom for further  
6 clarification. In that event, you should first transmit,  
7 through Deputy Clerk, Ms. Kristin Makely, a note to me signed  
8 by your foreperson. None of you should attempt to  
9 communicate with me by any other means than a note signed by  
10 the foreperson. I will not communicate with you on any  
11 subject touching the merits of the case other than in writing  
12 or orally here in open court. Any writing from me to you or  
13 from you to me will be shared with Counsel. At no time  
14 during your deliberations should you reveal, even to me, how  
15 you may stand numerically on any question before you. That  
16 cannot happen until you have reached a unanimous verdict.  
17 Your function, members of the jury, is to reach a fair  
18 conclusion from the evidence and the applicable law. It is  
19 an extremely important function. Your verdict should be  
20 reached only after careful and thorough deliberation. In the  
21 course of that deliberation, you should talk to each other,  
22 consult with each other, discuss the evidence, discuss the  
23 reasonable inferences to be drawn from the evidence, and you  
24 should do all of this in a sincere effort to arrive at a just  
25 verdict. It is your duty to consider the issues with a view

1 toward reaching an agreement on a verdict if you can do so  
2 without violating your individual judgment and conscience.  
3 Each of you must decide the case for yourself, examining the  
4 issues and evidence with candor and frankness, and with  
5 proper deference to each other and proper regard for the  
6 opinions of each other. Mature consideration requires that  
7 you be willing to re-examine your own views and to change  
8 your opinion if convinced that it lacks merit or validity.  
9 While maintaining this flexibility, you are not required to  
10 surrender your honest conviction as to the weight or  
11 effective evidence solely because of another juror's opinion  
12 or merely for the purpose of returning a unanimous verdict.  
13 Keep in mind, and I know you will, that this is a most  
14 serious offense. The parties' Counsel and I rely upon you to  
15 give full and conscientious deliberation and consideration to  
16 the issues and evidence before you. You should not be  
17 influence by anything other than law and the evidence in this  
18 case. Each of the parties stands equal before The Court.  
19 Each of them is entitled to the same fair and impartial  
20 treatment at your hands.

21           The verdict sheet in this case is a paper setting  
22 out the name of the Defendant, together with a line for  
23 guilty and a line for not guilty on each count. That is  
24 where you will record your verdict, either guilty or not  
25 guilty. For your convenience, each of you will have a copy

1 of the verdict sheet. Normally, however, only one verdict  
2 sheet will be filled out. That should be filled out and  
3 signed by the foreperson. As I have previously stated, your  
4 verdict should be unanimous.

5           Members of the jury, I want to review now with the  
6 verdict form. It has two paragraphs. One, count one of the  
7 superseding indictment charges the Defendant, Sharif El-  
8 Battouty, with engaging in a child exploitation enterprise  
9 from in or about July 2016 through in or about August 2018.  
10 We, the jury, unanimously find the Defendant, Sharif El-  
11 Battouty, and then there's a place for you to check either  
12 guilty or not guilty. When you have concluded your  
13 deliberations on count one, the verdict form then says  
14 proceed to question two, which states count two of the  
15 superseding indictment charges the Defendant, Sharif El-  
16 Battouty, with conspiracy to advertise child pornography from  
17 in or about July 2016 through in or about August 29, 2018.  
18 We, the jury, unanimously find the Defendant, Sharif El-  
19 Battouty, and then you will fill in guilty or not guilty.  
20 Then there's a place for the signature of the foreperson and  
21 the date.

22 My I see Counsel at sidebar?

23           (Sidebar discussion occurred at 12:38 p.m.)

24           THE COURT: Jane? Any objections to the charge for  
25 the Defendant?



1 MR. LEE: Yes. Please note my objection to  
2 paragraph 67, which relates to the proposed jury charge that  
3 is submitted to the Court on the meeting of the in-concert  
4 provision in count one. Your Honor, with respect to the  
5 paragraph --

6 THE COURT: I will allow --

7 MR. LEE: I'm sorry.

8 THE COURT: -- that you have objected to the way you  
9 calculate the number.

10 MR. LEE: Correct.

11 THE COURT: Yeah. The objection's overruled.

12 MR. LEE: Okay. Your Honor, in para 18, which is  
13 the reasonable doubt paragraph --

14 THE COURT: Yeah.

15 MR. LEE: You -- there was one word you mis --

16 THE COURT: Okay.

17 MR. LEE: -- spoke on.

18 THE COURT: Okay. Alright. What did I say?

19 MR. LEE: I can show you. You said convinced --

20 THE COURT: Alright.

21 MR. LEE: -- instead of convicted.

22 THE COURT: Let me reread that.

23 MR. LEE: Could you reread the whole paragraph?

24 THE COURT: I don't think it necessary. I'll start  
25 with reasonable doubt, it's not that (indiscernible).

1 MR. LEE: Okay.

2 THE COURT: Alright. Any objections  
3 (indiscernible). Alright, I will make that correct and tell  
4 the jury that they'll be getting a copy of the charge, unless  
5 (indiscernible).

6 MR. LEE: One other item, Your Honor. The  
7 Government has prepared the laptop computer --

8 THE COURT: Yes.

9 MR. LEE: -- to go back. I've reviewed it, so I'm  
10 comfortable with -- subject to objection, which you  
11 understand.

12 THE COURT: I understand.

13 MR. LEE: I'm comfortable with the laptop in its  
14 current form that's going to go back to the jury, but I  
15 wonder if you could instruct the jury that they should only  
16 look at -- and by the way, we've wiped off all the other  
17 files on the computer, just the exhibits. But I would  
18 request that you instruct the jury that they are not to do  
19 anything else on the laptop other than look at the exhibits,  
20 and my primary concern is I wouldn't want them to access the  
21 internet and do any kind of research.

22 THE COURT: Alright. Well, I'll certainly tell  
23 them.

24 MR. LEE: Okay, thank you.

25 (Sidebar discussion concluded at 12:41 p.m.)

1           THE COURT: Members of the jury, you may be happy to  
2 know that you will each be getting a copy of my instructions,  
3 which I've read for the last hour, so you'll each have that,  
4 and you'll also -- for your reference. And you will also  
5 have a copy of the verdict sheet, although only one verdict  
6 sheet should be filled out.

7           Now, I read this charge for about an hour, and  
8 Counsel has informed me that I misread a sentence, so I want  
9 to correct that now. But I'll read several sentences around  
10 it. Reasonable doubt is doubt which appeals to your reason,  
11 to your judgment, to your common sense, and to your  
12 experience. It is not caprice or whim or speculation. It is  
13 not an excuse to avoid the performance of an unpleasant duty.  
14 A Defendant may not be convicted based on suspicion or  
15 conjecture, but only on evidence proving guilt beyond a  
16 reasonable doubt.

17           Members of the jury, the case is now in your hands,  
18 and your first obligation will be to elect the foreperson,  
19 and any one of you can serve as the foreperson. You will  
20 also be receiving a laptop which contains all the exhibits in  
21 the case. You will have that for your reference. Now,  
22 obviously you are to use the laptop only to look at the  
23 exhibits. You're not to do any research on it, to use it for  
24 any other purpose, and I think that's pretty obvious. I'm  
25 sure you would not do that. And I'm sure your lunch is



1 there, if it hasn't already arrived. The case is now in your  
2 hands for deliberation. But before we retire, is there a  
3 security officer here? Ms. Makely, will you please affirm  
4 him?

5 MS. MAKELY: Please raise your right hand. Do you  
6 swear or affirm that you will keep this jury in a quiet,  
7 convenient place for their deliberations, and that you will  
8 allow no one to speak to them or speak to them yourself  
9 touching the issue before them unless it is to inquire if  
10 they have agreed upon the verdict? Do you solemnly swear?

11 SECURITY GUARD: I do.

12 MS. MAKELY: Thank you.

13 THE COURT: Before we retire, the alternate jurors  
14 will not be deliberating with the jury. Ms. Makely has a  
15 comfortable location for you, and you're free to talk about  
16 anything in the world you want to talk about except the case.  
17 Please do not discuss the case while you are together. Thank  
18 you very much.

19 MS. MAKELY: All rise.

20 (Jury out at 12:43 p.m.)

21 (Recess at 2:43 p.m., until 2:18 p.m.)

22 THE COURT: May I see Counsel? John, you need to  
23 get the copies of the charge and (indiscernible).

24 (Jury in at 2:18 p.m.)

25 MS. MAKELY: Court is now in session.

1 THE COURT: You may be seated. Will the foreperson  
2 please rise. Has the jury reached a verdict?

3 FOREPERSON: Yes.

4 THE COURT: May I see the verdict sheet, please?  
5 Ms. Makely, will you please take the verdict?

6 MS. MAKELY: On Bill of Indictment Number 18-352,  
7 Defendant 3, between the United States of America and Sharif  
8 El-Battouty, as to count one, do you find the Defendant  
9 guilty or not guilty?

10 FOREPERSON: Guilty.

11 MS. MAKELY: As to count two, do you find the  
12 Defendant guilty or not guilty?

13 FOREPERSON: Guilty.

14 THE COURT: Thank you. Anything further from  
15 Counsel at this time?

16 MR. SCHLESSINGER: Not from the Government, Your  
17 Honor.

18 MR. LEE: Nothing, Your Honor.

19 THE COURT: Thank you. Members of the jury, I want  
20 to thank you very much for your service in this matter. I  
21 will meet you in the jury room to say goodbye.

22 MS. MAKELY: All rise.

23 (Jury excused at 12:20 p.m.)

24 THE COURT: We'll give Counsel a date for  
25 sentencing, which will probably be sometime in September,

1 because we need to get the (indiscernible). Alright, thank  
2 you very much and good luck to everyone. And Ms. Shoop, good  
3 luck to you on July 5th.

4 MS. SHOOP: Thank you, sir.

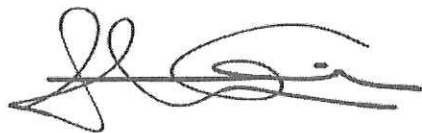
5 MR. LEE: Thank you, Your Honor.

6 (Court adjourned at 2:23 p.m.)



CERTIFICATE

I, Stephanie Garcia, court approved transcriber, certify that the foregoing is a correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter.

A handwritten signature in black ink, appearing to read 'Stephanie Garcia', with a horizontal line drawn through the middle of the signature.

June 24, 2019